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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

Amendment of Section 73.202)

FM Table of Assignments)

(Cusseta, Georgia))

ORIGINAL
FILE

MM Docket No. 92-239
RM 8089

To: Chief, Policy and Rules Division

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REPLY COMMENTS

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Chattahoochee County Broadcasting ("Petitioner") by counsel herewith submits its Reply Comments with respect to the Commission's Notice of Proposed Rulemaking (DA 92-1335), released October 26, 1992, wherein the Commission proposed the assignment of FM Channel 279A at Cusseta, Georgia.

On December 17, 1992, Petitioner filed Comments supporting the assignment proposed in the referenced Notice of Proposed Rulemaking. As Petitioner noted in its Comments, Petitioner had requested the allocation of FM Channel 266A to Cusseta, Georgia, in its Petition for Rulemaking. While the use of Channel 266A at Cusseta is in conflict with competing proposals at Thomaston, Georgia and Smiths, Alabama, Channel 279A, which the Commission has proposed for assignment in lieu of Channel 266A, is only potentially available for allocation at Cusseta, inasmuch as the proposed substitution of Channel 278C3 for 279A at Leesburg, Georgia, has not been implemented. Accordingly, given the

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contingent nature of the availability of Channel 279A and the fact that Petitioner's Petition for Rulemaking was timely submitted vis a vis the proposed competing uses of Channel 266A at Thomaston, Georgia and Smiths, Alabama, Petitioner contended and hereby reiterates its contention that it is entitled to protection with respect to its proposal requesting the allocation of Channel 266A at Cusseta. Accordingly, the Commission should take no action which would preclude the allocation of Channel 266A at Cusseta, Georgia, until such time as the contingency relating to the availability of Channel 279A is resolved and WEGC(FM) is license to operate on Channel 278C3.

Nevertheless, Petitioner reiterated in its Comments and hereby reiterates its intention to promptly prepare and file the necessary Application for Construction Permit for either Channel 279A, as proposed in the above referenced Notice of Proposed Rulemaking, or Channel 266A, as advanced in Petitioner's Petition for Rulemaking, should either Channel be allocated, and, having obtained authorization to do so, will promptly construct the facilities requested.

Neither Petitioner nor its counsel were served with any Comments or Counterproposals with respect to the above referenced proposal. Sections 1.415 and 1.420 of the Commission's Rules require that all such comments and counterproposals be served on the Petitioner. Pursuant to the provisions of those Rules any comments or counterproposals which are not so served are not subject to being considered. Thus it would appear that only the

Comments of Petitioner are subject to consideration in this proceeding, due to the failure of any other interested party to serve the Petitioner.

Therefore, inasmuch as the proposed Channel assignment would provide the community of Cussetta with its first local service Petitioner urges the Commission to assign either Channel 279A, as proposed in the above referenced Notice of Proposed Rulemaking, or Channel 266A, as advanced in Petitioner's Petition for Rulemaking, to Cusseta, Georgia.

WHEREFORE, for the foregoing reasons, the Commission should amend Section 73.202 of its Rules by assigning either FM Channel 266A or 279A at Cusseta, Georgia.

Respectfully Submitted,

CHATTAHOOCHEE COUNTY BROADCASTING

By:


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December 28, 1992